



DEPARTMENT OF TRANSPORTATION

4910-9X

Office of the Secretary

49 CFR Part 37

[Docket No. DOT-OST-2013-0014]

Notice of Retrospective Review of the Americans with Disabilities Act Regulations for Over-the-Road Bus Operators; Request for Comments

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The DOT is seeking comments to help conduct a review of some of the requirements of the Americans with Disabilities Act of 1990 (ADA) implementing regulations for over-the-road bus (OTRB) operators. The DOT will review regulations specified in the “Supplementary Information” section. Your comments will assist DOT with making decisions to modify or retain certain requirements found in these ADA regulations.

DATES: Please send your comments by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written comments to assist in our review of 49 CFR part 37 subpart H to the Office of General Counsel. Mail or hand deliver comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590; submit electronically at <http://www.regulations.gov>; or fax comments to 202-366-9313. All comments should include the docket number that appears in the heading of this document. All comments

received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: Jill Laptosky, Attorney–Advisor, Office of Regulation and Enforcement (C–50), U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, 202–493–0308 (telephone), 202–366–9313 (fax), jill.laptosky@dot.gov.

SUPPLEMENTARY INFORMATION:

On September 28, 1998, the U.S. Department of Transportation (DOT or the Department) issued final regulations, in response to the ADA (Pub. L. 101–336, 104 Stat. 327, 42 U.S.C. 225 and 611), which required the accessibility of new over-the-road buses (OTRBs) and accessible OTRB service. An OTRB is defined as “a bus characterized by an elevated passenger deck located over a baggage compartment.” 49 CFR 37.3. The regulations require commercial OTRB operators to ensure that passengers with disabilities have access to OTRB transportation. The DOT is required by 49 CFR 37.215 to review various requirements within the ADA regulations for OTRB operators. These requirements include the following: the purchase and lease requirements of new OTRBs by operators of fixed-route systems (§ 37.183), the fleet accessibility requirements for OTRB fixed-route

systems of large operators (§ 37.185), the interline service requirements (§ 37.187), the service requirement for OTRB demand-responsive systems (§ 37.189), the special provision for small mixed-service operators (§ 37.191), and the interim service requirements for fixed-route operators (§ 37.193(a)). We are not reviewing any other requirements in the ADA regulations for OTRB operators at this time.

As part of this review, DOT is required to consider certain factors, including the percentage of accessible OTRBs in the fleets of OTRB operators, the success of such operators at meeting the requests of passengers with disabilities for accessible OTRBs in a timely manner, ridership of OTRBs by passengers with disabilities, volume of complaints by passengers with disabilities, and the cost and service impacts of these requirements. After the review, DOT will decide whether it is appropriate to revise the part 37 ADA regulations for OTRB operators or retain the current regulations without change. The DOT will publish a notice, after the review is complete, that announces our decision and our justification.

To this end, DOT requests comments and information so the Department can better review such ADA regulations and make an informed decision on whether to initiate a rulemaking to propose revisions to any of the regulations involving OTRBs and, if so, how to develop a notice of proposed rulemaking. Specifically, comments about OTRB fleet accessibility, fulfillment of accessible OTRB service requests, and ridership and volume of complaints by passengers with disabilities, would be helpful. The DOT welcomes comments from the public, including OTRB operators and individuals with disabilities, on any aspect of this notice. The Department is particularly interested in comments from OTRB operators, both large and small, on the following:

1. The accessibility of your OTRB fleet. How many OTRBs do you own? Of the OTRBs that you own, how many are accessible? How many OTRBs are term-leased longer than 30 days? Of the OTRBs that are term-leased, how many are accessible? Have you been successful at meeting the requests of passengers with disabilities for accessible OTRBs in a timely manner, and what challenges continue to exist in meeting these requests?
2. Accessibility arrangements. If your company does not own or lease an accessible OTRB, what arrangements have you made to meet the requirements to provide accessible transportation? For example, has your company made arrangements with another company that operates an accessible OTRB to provide accessible OTRB service on behalf of your company when a 48-hour advance notice request for accessible OTRB service is received?
3. Received requests. Within the previous 12 months, have you received any of the following inquiries, requests, or complaints, and, if so, how many?
 - Inquiries regarding whether your company owns or leases an accessible OTRB,
 - Inquiries regarding whether your company can provide accessible OTRB service,
 - Requests for accessible OTRB service that were received with a minimum of 48-hour advance notice and satisfied according to the requested provisions,
 - Number of passengers with disabilities who have used your company's accessible OTRB service, and

- Complaints regarding denial of accessible OTRB service to an individual with a disability.
4. Costs and Service Impacts. What are your company's costs of providing accessible OTRB service? Please provide specific cost data broken down into various cost categories (e.g., maintenance). What effect does accessible transportation compliance have on your overall operation?
 5. Other Comments. The Department is also interested in your input on whether any specific requirement under review should be changed and why. Please provide supporting information for your recommended change, and explain whether the recommended regulatory change would affect all types of OTRB operators or just one type, such as large fixed-route, small fixed-route, or all demand-responsive operators.

Your comments will help the Department conduct a review of its ADA regulations for OTRB operators and decide whether to propose any regulatory revisions. At this time, there are no pending proposed revisions to DOT's ADA regulations for OTRB operators.

Issued in Washington, DC, on February 19, 2013,

Robert S. Rivkin,
General Counsel.

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